

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

DOCKETING STATEMENT

Case Number: 25-127

Short Case Caption: In re United States

Filing Party/Entity: United States (through the U.S. International Trade Commission)

Instructions: Complete each section or check the box if a section is intentionally blank or not applicable. Attach additional pages as needed. Refer to the court's Mediation Guidelines for filing requirements. An amended docketing statement is required for each new appeal or cross-appeal consolidated after first filing.

| Case Origin | Originating Number | Type of Case |
|---------------------------|--------------------|----------------------------|
| U.S. Court of Int'l Trade | 1:21-cv-00219-SAV | Antidumping/Countervailing |

Relief sought on appeal: ☐ None/Not Applicable

Petitioner seeks a writ of mandamus (1) requiring the U.S. Court of International Trade to retain the Commission's designation of information as business proprietary information ("BPI") unless the submitting party has consented to its disclosure; and (2) to vacate the court's Slip Op. 25-32, requiring the Commission to contravene its statutory obligation to maintain the confidentiality of information submitted to it during the underlying investigations.

Relief awarded below (if damages, specify): ☒ None/Not Applicable

Briefly describe the judgment/order appealed from:

This case arises from an appeal by certain foreign producers and importers of phosphate fertilizers from a determination by the U.S. International Trade Commission that imports of those products are causing material injury to a domestic industry. Separate from the issues concerning the merits of the Commission's determination, the U.S. Court on International Trade issued an opinion and order on March 27, 2025, addressing issues of confidentiality that were not raised by any of the parties. In this order, the court set out its intention to imminently release, in its forthcoming public opinion on the merits, information that the Commission obtained during its investigation on a confidential basis and designated as confidential BPI subject to protections afforded by the governing statute and regulations. The Commission seeks to prevent the unwarranted public disclosure of this information.

Nature of judgment (select one):

Date of judgment: 3/27/25

☐ Final Judgment, 28 USC § 1295

☐ Rule 54(b)

☒ Interlocutory Order (specify type) Order re Confidentiality (CIT Slip Op. 25-32)

☐ Other (explain) _____

Name and docket number of any related cases pending before this court, and the name of the writing judge if an opinion was issued. ☐ None/Not Applicable

In re United States (CAFC No. 24-1566)

Issues to be raised on appeal: ☐ None/Not Applicable

Whether it would be an abuse of the lower court's discretion to publicly disclose information that the Commission designated as business proprietary pursuant to the governing statute and regulations, and thereby disregard confidentiality protections put in place by the Commission in its investigations below, without the consent of the submitting parties whose information will be affected.

Have there been discussions with other parties relating to settlement of this case?

☐ Yes ☒ No

If "yes," when were the last such discussions?

- ☐ Before the case was filed below
- ☐ During the pendency of the case below
- ☐ Following the judgment/order appealed from

If "yes," were the settlement discussions mediated? ☐ Yes ☐ No

If they were mediated, by whom?

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

Explain.

This case arises on petition for writ of mandamus, regarding actions that the lower court has indicated it imminently intends to take. There are not adverse litigants with whom to mediate.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

Date: 4/18/25 Signature: /s/ Courtney S. McNamara
Name: Courtney S. McNamara